

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

GABRIEL CASTREJON dba El
Marisquero, et al.,

Defendants.

No. 1:22-cv-00319-ADA-SKO

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DECLINING
SUPPLEMENTAL JURISDICTION OF
STATE LAW CLAIMS

(ECF No. 27)

On March 18, 2022, Plaintiff Darren Gilbert (“Plaintiff”) initiated this action alleging violations of the American with Disabilities Act, 42 U.S.C. § 12101 et seq. (“ADA”) and related state statutes. (ECF No. 1.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 23, 2023, the Court granted Plaintiff leave to file his First Amended Complaint (“FAC”). (ECF No. 23.) The Plaintiff filed his FAC on February 24, 2023, asserting a claim for injunctive relief arising out of alleged violations of the ADA and California Health and Safety Codes and a claim for damages pursuant to California’s Unruh Act. (ECF No. 25.) Following an order to show cause, on March 23, 2023, the assigned Magistrate Judge issued findings and recommendations, recommending that the Court decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim and that the claim be dismissed, without prejudice, pursuant to 28 U.S.C. § 1367(c)(4). (ECF No. 27.) The findings and recommendations were served on Plaintiff

1 and contained notice that any objections thereto were to be filed within fourteen (14) days after
2 service. (*Id.* at 7–8.) No objections have been filed, and the time in which to do so has passed.


3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(c), this Court has conducted a
4 *de novo* review of the case. Having carefully reviewed the entire file, the Court finds that the
5 findings and recommendations are supported by the record and proper analysis.

6 Accordingly,

- 7 1. The findings and recommendations issued on March 23, 2023, (ECF No. 27), are
8 ADOPTED IN FULL;
- 9 2. Pursuant to 28 U.S.C. § 1367(c)(4) and *Vo v. Choi*, 49 F.4th 1167 (9th Cir. 2022),
10 the Court declines to exercise supplemental jurisdiction over Plaintiff's Unruh Act
11 claim and Plaintiff's California Health & Safety Codes §§ 19955, 19959 claims¹;
12 and
- 13 3. Plaintiff's Unruh Act and California Health & Safety Codes §§ 19955, 19959 claims
14 are DISMISSED without prejudice pursuant to 28 U.S.C. § 1367(c)(4);
- 15 4. This matter is referred back to the assigned Magistrate Judge for further
16 proceedings.

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19 IT IS SO ORDERED.

20 Dated: June 6, 2023

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UNITED STATES DISTRICT JUDGE

26 ¹ Plaintiff's California Health & Safety Code claims are subject to the same heightened pleading and filing
27 requirements as his Unruh Act claim. *See Gilbert v. Singh*, No. 1:21cv1338-AWI-HBK, 2023 WL 2239335,
28 *2 (E.D. Cal. Feb. 27, 2023). Therefore, the same considerations that apply against maintaining
supplemental jurisdiction over Plaintiff's Unruh Act claims apply to Plaintiff's Health & Safety Code claims.
See id.